

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**IN RE: SPECIAL COUNSEL  
INVESTIGATION**

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**Misc. No. 04-461 (TFH)**

**CIVIL CONTEMNOR MATTHEW COOPER'S  
MEMORANDUM REGARDING THE CONTEMPT SANCTION**

Civil contemnor MATTHEW COOPER, by his undersigned attorneys, respectfully submits this memorandum regarding the contempt sanction to be imposed pursuant to this Court's October 13, 2004 Order holding Mr. Cooper in civil contempt for failing to comply with a grand jury subpoena. This memorandum is submitted in accordance with the Court's instructions during the June 29, 2005 Scheduling Conference.

Although Mr. Cooper is prepared to accept whatever civil contempt sanction this Court may impose upon him, the decision of Time, Inc. to comply with the Special Counsel's demand should obviate the need to enforce the subpoena served on Mr. Cooper and the contempt citation against him. Given the nature and volume of the materials released to the Special Counsel by Time, Inc., Mr. Cooper submits that his testimony would be duplicative and unnecessary, and he respectfully requests that the Court inquire of the Special Counsel whether the grand jury still needs Mr. Cooper's testimony.

**I. INTRODUCTION**

This matter comes before this Court following the decision of the Court of Appeals affirming this Court's October 13, 2004 civil contempt citation against Mr. Cooper and the Supreme Court's denial of Mr. Cooper's petition for certiorari. This Court has adjudged Mr. Cooper to be in civil contempt for refusing to comply with a subpoena issued by a grand jury on September 13, 2004, and, in accordance with the federal recalcitrant witness statute, 28 U.S.C. § 1826, has ordered Mr. Cooper "confined at a suitable place until such time as he is

willing to comply with the grand jury subpoena.” Order (Oct. 13, 2004) at 2. As more fully explained below, Mr. Cooper respectfully requests that this Court fashion a civil contempt sanction that fulfills the coercive purpose of civil contempt but is also appropriate to his circumstances.

## II. BACKGROUND

Because the Court is well aware of the background of these proceedings, only a short statement is warranted here.

Mr. Cooper has been held in civil contempt for refusing to submit to questioning by the Special Counsel that is intended to elicit the identity of confidential sources for information appearing in news articles co-authored by Mr. Cooper. Although this Court and the Court of Appeals have held that Mr. Cooper does not enjoy a First Amendment or common law privilege to refuse to comply with the grand jury subpoena, there can be no doubt that Mr. Cooper’s continued adherence to his promise of confidentiality is rooted in a principled desire to maintain his professional obligation to protect the identities of his confidential sources. Mr. Cooper’s recalcitrance is not intended as a personal affront to this Court. Rather, it is a matter of personal and professional ethics. See Affidavit of Matthew Cooper, dated June 3, 2004 (“Cooper Affidavit”), at ¶ 17 (“If I were to inform the Government about my conversations with confidential sources or turn over documents that would reveal their identities, I would be violating my promises to those sources and the confidences placed in me by them. I take those promises very seriously and fully intend to honor them.”); American Society of Newspaper Editors, Statement of Principles art. VI (1975 ed.) (“Pledges of confidentiality to news sources must be honored at all costs, and therefore should not be given lightly.”), *reprinted in* Jay Black, *et al.*, *Doing Ethics in Journalism* 284 (3d ed. 1999); Society of Professional Journalists, Code of Ethics, Preamble (Sept. 1996) (“Professional integrity is the cornerstone of a journalist’s credibility.”), *reprinted in* Black, *supra*, at 6.

As this Court is aware, Mr. Cooper is a distinguished and well-respected journalist. He is currently the White House Correspondent for *Time* magazine, America's largest weekly news magazine; and, over the course of his twenty years as a professional investigative reporter, he has written for numerous other publications, including *U.S. News and World Report*, *The New Republic*, *Newsweek*, *The New York Times*, *The Washington Post*, *The Washington Monthly*, and *Los Angeles Magazine*. As Mr. Cooper has stated in his affidavit previously submitted to this Court, he relies on confidential sources -- and the promise to his sources to maintain confidentiality -- to do his job and to report on matters of public concern that, oftentimes, otherwise would go unreported. See Cooper Affidavit, at ¶¶ 12-15.

If Mr. Cooper were to breach his promise of confidentiality, his ability to continue as an effective reporter would be seriously jeopardized. *Id.* at ¶¶ 15-16.<sup>1</sup> This is particularly true given Mr. Cooper's role covering the White House, where sources often request confidentiality before speaking with reporters. See, e.g., Gail Russell Chaddock, *Watergate-Week Fallout*, CHRISTIAN SCIENCE MONITOR, Jun. 7, 2005, at 3 (reporting that "[a]nonymous sourcing is so deeply ingrained in the fabric of Washington journalism that Cabinet officials and top White House aides routinely give briefings on background"); Eugene Robinson, *Using the Media for a Magic Trick*, WASH. POST, May 24, 2005, at A17 (asserting that "this is the most secretive administration in recent memory" and that "[u]nnamed sources are a necessity"); David Shaw, *Promises of Confidentiality Aren't Made to Be Broken*, L.A. TIMES, Oct. 23, 2003, at E-16 (quoting well-known reporter Seymour Hersh as stating that any reporter who reneged on a promise of confidentiality would no longer be trusted by anyone and would "give up [his] access

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<sup>1</sup> See also *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 287 (4th Cir. 2000) ("If reporters were routinely required to divulge the identities of their sources, the free flow of newsworthy information would be restrained and the public's understanding of important issues and events would be hampered in ways inconsistent with a healthy republic."); *United States v. LaRouche Campaign*, 841 F.2d 1176, 1181 (1st Cir. 1988) (observing that "disclosure of . . . confidential [sources] would clearly jeopardize the ability of journalists and the media to gather information and, therefore, have a chilling effect on speech"); *Zerilli v. Smith*, 656 F.2d 705, 711 (D.C. Cir. 1981) ("Compelling a reporter to disclose the identity of a source may significantly interfere with this news gathering ability.").

to the White House"). For these reasons and for the sake of these principles, Mr. Cooper stands ready to accept whatever civil contempt sanction this Court may impose.

### **III. ARGUMENT**

Congress has specifically empowered district courts with discretion to mete out appropriate sanctions for civil contempt. Under the federal recalcitrant witness statute, 28 U.S.C. § 1826, a grand jury witness held in civil contempt may be summarily ordered to be confined "at a suitable place" for a period not to exceed the term of the grand jury, and in no case longer than 18 months. 28 U.S.C. § 1826(a). In addition to this statutory authority to confine a recalcitrant grand jury witness, federal courts also have the inherent authority to impose sanctions to compel compliance with court orders. *See Shillitani v. United States*, 384 U.S. 364, 370 (1966). In short, this Court has "broad discretion in fashioning an appropriate contempt sanction," which may include a fine instead of incarceration. *E.g., Lee v. United States Dep't of Justice*, 327 F. Supp. 2d 26, 33 (D.D.C. 2004), *aff'd* No. 04-5301, 2005 WL 1513086 (D.C. Cir. June 28, 2005).

As more fully explained below, Mr. Cooper respectfully suggests that home confinement would be the appropriate coercive sanction in this case. In the alternative, if the Court deems imprisonment to be the appropriate sanction, Mr. Cooper respectfully requests that the Court order that he be placed at a specific Federal Prison Camp ("FPC") -- ideally, the FPC located in Cumberland, Maryland. In any event, Mr. Cooper requests that the Court make a specific designation for a place of confinement and that he be allowed to surrender at a specified date and time.

#### **A. This Court Has Broad Power To Fashion An Appropriate Contempt Sanction**

The purpose of confining a recalcitrant witness is to coerce compliance with a court order. *See Shillitani*, 384 U.S. at 369-70; *In re Cantazaro*, 663 F. Supp. 1, 1 (D.D.C. 1985). The Supreme Court has long recognized, however, that the "least possible power adequate to the end proposed" should be used in contempt cases." *United States v. Wilson*, 421 U.S. 309, 319

(1975), quoting *Anderson v. Dunn*, 19 U.S. (6 Wheat.) 204, 231 (1821).<sup>2</sup> Thus, the “flexible sanctions” available to a court allow it “to apply the degree of coercion minimally necessary to gain compliance with its orders,” but Section 1826 does not “vest the court with the power to visit Draconian punishment upon the civil contemnor.” *In re Grand Jury Impaneled Jan. 21, 1975 (Freedman)*, 529 F.2d 543, 551 (3d Cir. 1976).

Consistent with the obligation to fashion a contempt sanction that is coercive and not Draconian, this Court retains not only the authority to determine *whether* a contumacious witness should be confined but also the power to determine *where* that witness should be confined. It is, in the words of the Court of Appeals for the Fifth Circuit, this Court’s “privilege to select a suitable place of confinement” for a civil contemnor. *In re Grand Jury Proceedings (Thurmond)*, 534 F.2d 41, 43 (5th Cir. 1976). Although Section 1826(a) does not define what is a “suitable place” for civil confinement, courts have nevertheless consistently understood this grant of authority to include the power to designate which facility or location is “suitable” in the eyes of the court.<sup>3</sup>

#### **B. The Court Should Order Home Confinement**

Mr. Cooper respectfully suggests that the Court order him to serve home confinement as an appropriate civil contempt sanction. Such an order is within this Court’s broad powers under Section 1826, would serve the contempt sanction’s coercive purpose, and would be appropriate given the circumstances of this case.

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<sup>2</sup> Of course, although the Court has ordered Mr. Cooper to be “confined,” the Court nevertheless retains the discretion to impose a civil fine instead. See, e.g., *In re Special Proceedings*, 373 F.3d 37, 46 (1st Cir. 2004) (affirming daily fine imposed on recalcitrant reporter who refused to comply with subpoena issued by a special prosecutor).

<sup>3</sup> See, e.g., *In re Grand Jury Proceedings (Raper)*, 491 F.2d 42, 45 (D.C. Cir. 1974) (noting that district court committed a female juvenile held in civil contempt to a youth center rather than a women’s detention center); *SEC v. Bilzerian*, 131 F. Supp. 2d 10, 18-19 (D.D.C. 2001) (Harris, J.) (ordering a designation to “the nearest appropriate federal facility in Tampa, Florida”); *In re Grand Jury Proceedings (Will Lewis)*, 384 F. Supp. 133, 140-41 (C.D. Cal. 1974) (ordering witness to be “incarcerated in a jail type facility recommended to be the Terminal Island Federal Correctional Institution”).

As a preliminary matter, the Court's authority to designate a place of confinement plainly includes the ability to order home detention. When drafting Section 1826(a), Congress did not use the words "incarcerate" or "imprison," although it certainly could have done so. Rather, Congress provided that recalcitrant witnesses should be confined at "a suitable place." 28 U.S.C. § 1826(a); *see also In re Grand Jury Subpoena Served on John Doe*, 889 F.2d 384, 385-86 (2d Cir. 1989) (noting that district court ordered house arrest, rather than incarceration, for a witness who refused to testify before a grand jury). Moreover, the broad latitude afforded this Court by the plain language of Section 1826(a) is at least consistent with this Court's authority and discretion to determine the appropriate conditions for confining prisoners actually charged with a criminal offense. For such prisoners, federal law authorizes courts to order their pretrial release under various conditions, including home detention or residence in a halfway house. *See* 18 U.S.C. §§ 3142(c)(1)(B)(iv), (vii) & (xiii) (allowing the court to condition release on defendant's compliance with conditions such as "specified restrictions on . . . place of abode, or travel," "a specified curfew," or returning to custody "for specified hours following release"). Admittedly, contempt prisoners are not subject to the terms of 18 U.S.C. § 3142 because recalcitrant witnesses have not been charged with an offense. Their classification, however, by the Bureau of Prisons ("BOP") as "pre-trial detainees," *see* 28 C.F.R. § 551.101(a), strongly suggests that similar treatment would be consistent with the power granted by Section 1826.

As a practical matter, this Court may establish whatever parameters it deems appropriate to ensure home confinement serves the coercive purposes of the civil contempt sanction. Thus, the Court is free to require such standard home confinement conditions as requiring electronic monitoring, restricting when Mr. Cooper may leave his residence or when he may receive visitors, prohibiting him from engaging in any business or professional activities during the time of home detention, and banning him from telephone calls or appearances on radio or television.

Moreover, the Court could minimize the financial burden to the public by ordering that the cost of home confinement be borne privately.<sup>4</sup>

Home detention would also be appropriate in this case because it would materially restrict Mr. Cooper's activities without unduly punishing his wife and child. As the attached letters from Mr. Cooper's friends and colleagues make clear, Mr. Cooper lives at home with his wife and very young son. See Exhibit B (attached hereto). To remove him from his home for confinement at a federal detention facility would be a significant burden on his family. Yet restricting him to home confinement would take him from his professional passion -- to work as a journalist -- while at the same time limiting the impact on his family. The power of this deprivation on Mr. Cooper, the coercive effect contemplated by the statute, would be substantial as is evidenced by this very proceeding, arising as it does from Mr. Cooper's difficult decision to uphold his journalistic principles despite the Court's Order.

Home confinement would fulfill the mandate to employ "the degree of coercion minimally necessary to gain compliance with its orders." *In re Grand Jury Impaneled Jan. 21, 1975 (Freedman)*, 529 F.2d at 551. Home confinement would also avoid burdening, in terms of cost and bed space, a notoriously overburdened and increasingly understaffed local prison system. And home confinement would be sufficiently coercive for this non-violent, non-criminal journalist, while at the same time avoiding the physical danger and trauma that would be part and parcel of his being confined in a local prison or (to a lesser degree) an FPC.

**C. In The Alternative, Mr. Cooper Should Be Ordered Confined At A Federal Prison Camp**

Should the Court decline to place Mr. Cooper in home confinement, he respectfully requests that the Court assign him to an FPC -- and specifically to the camp in Cumberland, Maryland. Under Department of Justice regulations, should this Court order Mr. Cooper to a

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<sup>4</sup> Mr. Cooper is aware of at least one such supervision provider, General Security Services Corporation, which has extensive experience safeguarding home-confined detainees. Additional literature from the company is attached hereto as Exhibit A.

specific BOP facility, the BOP must either place him as ordered or make other arrangements with this Court's approval. See 28 C.F.R. § 522.11(c); BOP Program Statement 5140.38, *Civil Contempt of Court Commitments* (July 1, 2004), at 4.

It is Mr. Cooper's understanding that, absent a specific designation from this Court as to his place of confinement, he will be remanded to the custody of the United States Marshals Service ("USMS"). Without a specific designation from this Court, there is a substantial risk that Mr. Cooper will be housed, as are all other "pre-trial detainees," at the District of Columbia's Central Detention Facility (known as "D.C. Jail") or, alternatively, at one of the local contract jail facilities.<sup>5</sup>

Confinement in the D.C. Jail -- even temporary confinement -- would subject Mr. Cooper, a non-violent, *non-criminal* journalist, to a dangerous maximum security lockup already overcrowded with a mix of convicted offenders and other detainees awaiting criminal trials. To be blunt, "[t]o be in the D.C. Jail is to be unguarded and unprotected." Editorial, *In Danger in the D.C. Jail*, WASH. POST, Jan. 1, 2004, at A24.<sup>6</sup> Such a placement would be a sanction beyond coercion. See *Wilson*, 421 U.S. at 319 (admonishing that the "least possible power adequate" should be used in contempt cases).

Likewise, detention in a local contract jail facility would represent little improvement. As with the D.C. Jail, a local contract jail would place Mr. Cooper among other pre-trial detainees -- some violent -- in a maximum security setting. As with the D.C. Jail, these local facilities mix federal and state court detainees among convicted felons. Given the mix of violent

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<sup>5</sup> The local contract facilities where the USMS might house Mr. Cooper (absent specific judicial order) include: (1) Northern Neck Regional Jail in Warsaw, Virginia; (2) Central Virginia Regional Jail in Orange, Virginia; and (3) Montgomery County Detention Center in Rockville, Maryland.

<sup>6</sup> More recently, in April of this year the *Washington Post* reported that the District of Columbia has admittedly "failed to comply with a 14-month-old law negotiated with the D.C. Council to improve conditions and operations at the District's main jail after the stabbing deaths of two detainees and other inmate violence." Serge F. Kavaleski, *Despite Law, D.C. Jail Conditions Unimproved*, WASH. POST., Apr. 24, 2005, at C08.



inmates, Mr. Cooper would face grave danger if housed with the general population at a local USMS jail contractor. As a precaution and for his own safety, Mr. Cooper likely would suffer segregated lockdown.

The Court can minimize these unnecessary risks to Mr. Cooper's safety and achieve the coercive sanction authorized by Section 1826(a) by designating a specific BOP facility instead. Accordingly, should the Court deem it necessary to have Mr. Cooper confined in a correctional facility, Mr. Cooper would request that the Court specifically designate one of the nearby FPCs. In this case, Mr. Cooper would request designation at the FPC at Cumberland, Maryland, or, in the alternative, the FPC at Petersburg, Virginia.

**D. A Specific Designation By This Court And The Right To Surrender Voluntarily Are Imperative**

Regardless of where the Court may deem it most appropriate to confine Mr. Cooper, he requests that the Court specifically designate a location to ensure that this Court continues to oversee the conditions and location of Mr. Cooper's confinement. Additionally, should the Court order Mr. Cooper to be confined at a detention facility, he requests that the Court allow him to surrender voluntarily on a designated date so that he may avoid the USMS's initial intake process, which likely would include a stay of a week or more in the D.C. Jail. Allowing Mr. Cooper to remain on bail and to surrender voluntarily at a designated date and time also will allow the BOP sufficient time to process an appropriate assignment for Mr. Cooper to a particular BOP facility. Specifically, it is Mr. Cooper's understanding that the designation process for the BOP should take *at least* 7 to 10 days once the BOP is notified of the need to make such an assignment.

**IV. CONCLUSION**

For the foregoing reasons (and assuming that the imposition of a contempt sanction is still warranted now that Time, Inc. has turned over its materials to the Special Counsel), Mr. Cooper respectfully requests that, in accordance with this Court's plenary authority to designate a "suitable" place of confinement, the Court order that he submit to home confinement

under such conditions as this Court deems appropriate. In the alternative, Mr. Cooper respectfully requests that the Court specify a location for his imprisonment and order him confined at FPC Cumberland or another nearby FPC. Finally, Mr. Cooper respectfully requests that the Court allow him to remain on bail and to surrender voluntarily at a specified date and time to the Attorney General or his designee at FPC Cumberland.<sup>7</sup>

Dated: July 1, 2005

Respectfully submitted,

*Richard A. Sauber*

*with permission  
NJA*

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Appropriate proposed Orders reflecting these alternatives are appended hereto.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**IN RE: SPECIAL COUNSEL  
INVESTIGATION**

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**Misc. No. 04-461 (TFH)**

**[PROPOSED] ORDER**

Having read all submissions in this matter, and having considered the circumstances of this civil contempt and all remedies available to the Court,

**It is hereby ORDERED** that, pursuant to 28 U.S.C. § 1826, Contemnor Matthew Cooper be confined until such time as he is willing to comply with the grand jury subpoena. The period of confinement shall not exceed the life of the term of the grand jury, including extensions, and in no event shall exceed eighteen months.

**It is further ORDERED** that Contemnor be subject to supervised home confinement at his primary residence under the supervision of General Security Services Corporation. The terms of his confinement include that Contemnor (a) shall pay all costs of supervision while confined to his home; (b) shall participate in home confinement with electronic monitoring or other local verification system for the period of confinement; (c) shall not work at any time in his capacity as reporter for *Time Magazine*; (d) shall not use the telephone, except for privileged attorney telephone calls or other calls the Court may approve; (e) shall receive no visitors during the entirety of home confinement, except for privileged attorney visits, or other visits the Court may approve; (f) shall remain, along with his environs, at all times available for visitation and inspection, including searches by the Court or its designee, the United States Probation Office Pre-Trial Services Division; and (g) shall adhere to all standard pre-trial release conditions monitored by the Probation Office.

It is further **ORDERED** that Contemnor shall begin supervised home confinement at

\_\_\_\_\_ p.m. on \_\_\_\_\_, 2005.

Dated: \_\_\_\_\_, 2005

\_\_\_\_\_  
THOMAS F. HOGAN

Chief Judge of United States District Court

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**UNITED STATES DISTRICT COURT  
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**It is further ORDERED** that Contemnor be remanded to the custody of the Attorney General of the United States or his designee. Due to the unique nature of the case as well as Contemnor's background, the Court requests that the Attorney General or his designee seek forthwith a designation by the Bureau of Prisons ("BOP") for Contemnor to a minimum security camp in close proximity to the Court and to Contemnor's home, specifically, the Federal Prison Camp ("FPC") at **Cumberland, Maryland** or, if a designation to FPC Cumberland is impracticable, to FPC Petersburg, Virginia. If neither designation is practicable, Contemnor shall be remanded to the custody of another facility to which this Court and the BOP have agreed in advance. *See* 28 C.F.R. § 522.11(c); USDOJ-FBOP Program Statement (P.S.) 5140.33.

The Court makes this recommendation confident that Contemnor requires minimal supervision and does not need to be confined in a high security detention center. The Court further makes this recommendation for reasons related to Contemnor's safety.

**It is further ORDERED** that Contemnor is granted the privilege of Voluntary Surrender. The Contemnor shall surrender for service of confinement at FPC Cumberland or the institution agreed to by this Court and the BOP before 2 p.m. on \_\_\_\_\_, 2005.

**It is further ORDERED** that a copy of this Order shall be delivered forthwith to the following:

U.S. Marshals Service - District of Columbia District Court

Mr. John Mellinick  
Regional Administrator for Designations  
Federal Bureau of Prisons, Mid-Atlantic Regional Office  
10010 Junction Park, Suite 100N  
Annapolis Junction, MD 20701  
(301) 317-3100 (phone)  
(301) 317-3138 (fax)

Mr. James Morgan  
CCM Washington DC  
Community Corrections Office  
10010 Junction Park, Suite 100N  
Annapolis Junction, MD 20701  
(301) 317-3142 (phone)  
(301) 317-3138 (fax)

Dated: \_\_\_\_\_, 2005

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THOMAS F. HOGAN  
Chief Judge of United States District Court

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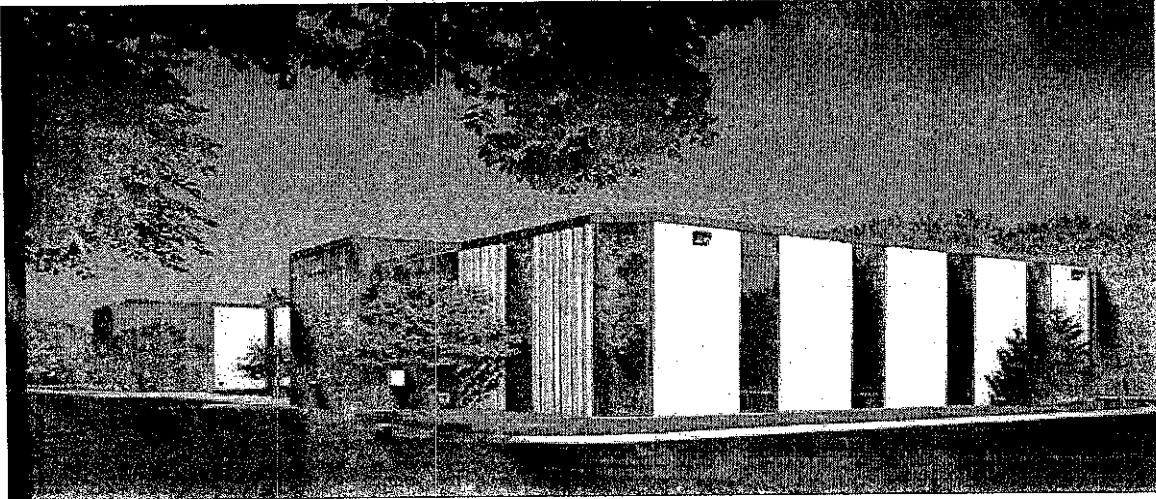
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## *GENERAL SECURITY SERVICES CORPORATION*



Corporate Headquarters: Minneapolis, Minnesota

General Security Services Corporation (GSSC) is currently in its 58<sup>th</sup> year of operational excellence. GSSC is a strong and diversified company employing over 1,500 people nationwide providing a variety of security related services to local, State, and Federal agencies. We are proud of the fact we can offer our customers the most diversified and highest quality people, products and services in the industry. We listen to our customers needs and work with them to produce a wide variety of successful security related solutions.

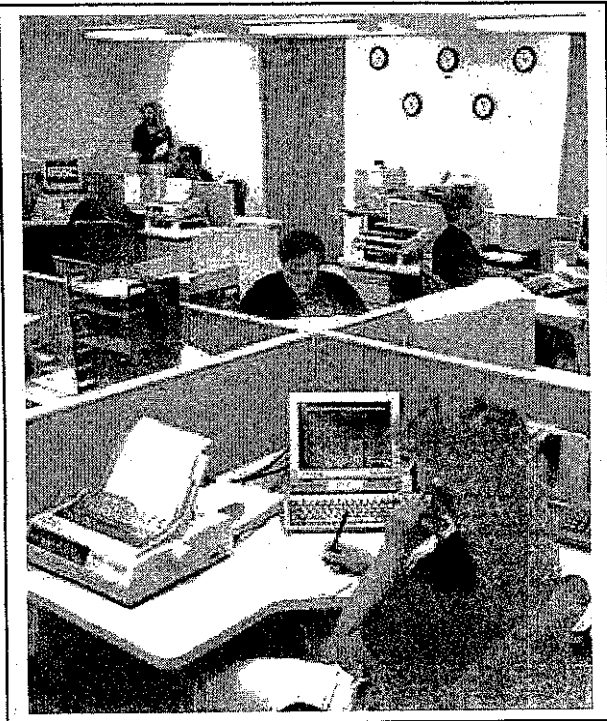
GSSC started Electronic Monitoring services in 1991. Since that time we have grown to provide services in 40 States, monitoring over 4,000 clients daily on house arrest and over 18,000 clients daily on low risk probation. Our monitoring center is UL Certified and among the best in the industry.

For more information on our products and services please contact: Steve Leopold (800) 284-2158



## Central Monitoring Center

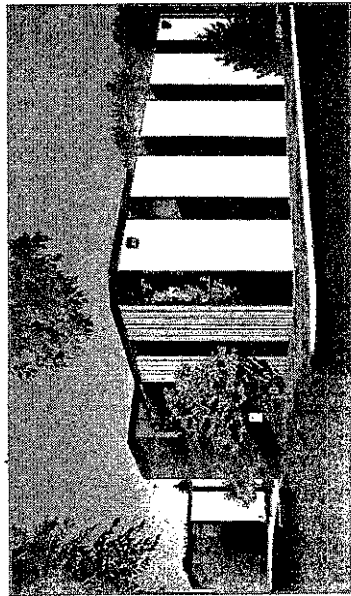
GSSC's U.L. Listed Monitoring Center is located in one of the most secure buildings available. The Monitoring Center is a custom made computer facility with raised flooring for cabling to run underneath. It has redundant heating and cooling units to maintain constant and comfortable temperatures for people and machines. It is also home to Midwest Patrol, our armed and unarmed guard and patrol service. To enter, three separate locked doors must be opened or defeated. Closed Circuit cameras monitor all entrances and the perimeter. Three CCTV units are located in the Monitoring Center itself whereby the Station Manager is able to observe and record all activities of the Center staff. Multiple alarm systems are in the building which activate both in the Center and at an independent alarm center. Operators have variable phone lines to use and two way radio contact with our mobile Patrol at all times.



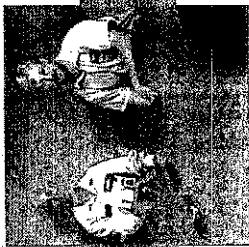
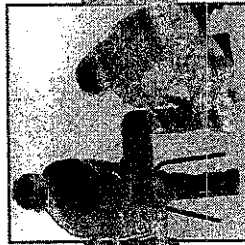
A 24 channel digital voice recorder monitors all voice telephone lines in and out of the Center 24 hours a day. If we are given an approximate date and time, any conversation can be found within minutes. All data lines are monitored by our long distance carrier for signs of problems or abuse and each Host system has multiple safeguards to deter unauthorized access. Three T-1 lines enter the Center from three different directions and provide 72 lines for use by monitor/receivers, faxes, remote terminals and field agents. All computers and work stations in the Center have uninterrupted power supplies to key components and the entire Center is backed up by two 85 Kilowatt gas fired generators, (natural and propane) which can run the operation indefinitely and is tested on full load for 30 minutes each week to comply with U.L. specifications.

Our station is fully staffed and in operation 24 hours a day, 365 days a year. All schedule changes, offender additions and deletions are received and updated promptly on the Host and logged for future reference. All telecommunication services enter GSSC through a fiber optic DS3 line. This fiber pipe enters from two separate locations and breaks out to different phone company central offices. If there is an interruption of phone services anywhere along the path, the service will automatically be re-routed to the redundant path within 50 milliseconds. This essentially gives GSSC six separate and independent paths for our phone service to be brought into our building.

GSSC does provide complete redundant systems for back-up for all monitoring activities. The host monitoring equipment does have multiple layers of back-up built into it. In addition to redundant power supplies and back-up systems, GSSC has devised a unique scheme of redundancies in our high-volume T-1 long distance trunk lines which will handle the 800 traffic for units reporting in from the field. Each host monitoring computer has at least 8 phone lines capable of inbound and outbound calls. These phone lines are split among three separate T-1 lines which run in different directions from our building to the long distance phone switch. This means that in the event of a cable-cut only half of our available phone lines would be affected. Calls would automatically be routed into the other operational lines. This has a very minimal impact on reception of phone calls. GSSC has similar arrangements for a voice call and operating between a long distance and local a T-1 trunk group and can re-route calls with the assistance of our long distance carrier within a matter of minutes.



# Full Service Electronic Monitoring



General Security Services Corporation (GSSC) has been providing security excellence since 1946. We are proud of the fact we can offer our customers the most diversified and highest quality people, products and services in the industry. We listen to our customers needs and work with them to produce a wide variety of successful programs in community corrections.

GSSC has been a national leader in the provision of Electronic Monitoring services since 1991. Since that time we have grown to provide services in 40 States. We monitor over 4,000 clients daily on house arrest and over 20,000 clients daily on low risk probation. Our Monitoring Center is U.L. certified and among the best in the industry. We are committed to a level of customer satisfaction above and beyond all others in the Electronic Monitoring industry.



9110 Meadowview Road • Minneapolis, MN 55425  
PHONE: 800.284.2158 • 952.858.5000 • FAX: 952.858.5050  
E-MAIL: [ams@gssc.net](mailto:ams@gssc.net) • WEB: [www.gssc.net](http://www.gssc.net)

## More Revenue for your Agency

Our unique rebate program gives you the opportunity to generate more revenue for your agency. If your rate for services exceeds GSSC's service rates, we will refund that amount to your agency. And, with our full service monitoring programs, we manage everything for you. From installation to supervision to fee collections, we do it all.



GENERAL SECURITY SERVICES CORPORATION™

## GSSC's Full Service

### Electronic Monitoring

# Partnership

General Security Services Corporation is an industry leader in providing sensible and economical solutions to the correctional issues of tomorrow. With our Full Service Monitoring program, we manage every aspect of Electronic Monitoring.

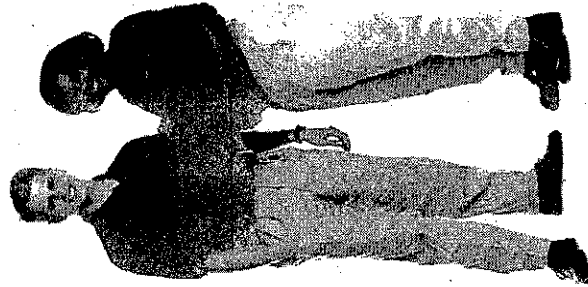
**24 hours a day**

**365 days a year**

## Monitoring Control Center

Let our trained experts provide 24 hour, 7 day a week monitoring services for your clients.

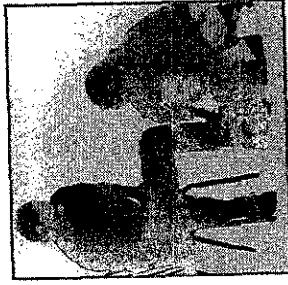
- U.I. Listed Monitoring Center
- Professional Operators who are Fully Screened, Trained and Certified
- Low-Cost, High-Quality Electronic Monitoring
- Immediate Client Response
- Schedule Changes, Offender Additions and Deletions are Received and Updated Promptly
- Digital Voice Recording



## GSSC's Full Service Monitoring Includes...

### Installation

Servicing of Electronic Monitoring equipment by dedicated GSSC employees. We provide all the servicing of equipment including installation, adjustments and equipment removal.



### Verification

Verification of clients daily productive activity (employment, treatment, etc...).

### Referrals

Simply make referrals by telephone, fax or e-mail to your local GSSC-Field Technician. We take everything from there.

### Supervision and Accountability

Provided by professional technicians with years of correctional experience. GSSC Field Technicians can easily be reached at any time.



### Fee Collection

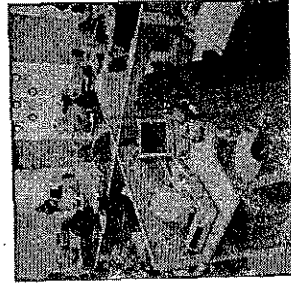
We will gladly collect any fees associated with the program.

### Rebate Program

Our unique rebate program allows your agency to generate revenue or pay for indigent clients based upon fees collected from the offender and costs of the service.

### Reporting

All-inclusive reports are immediately provided to the agent upon client enrollment, violation and termination. Complete client progress updates are provided to the referring agent as requested.



### Alcohol Monitoring

Complete remote breath alcohol testing is also available.

**EXHIBIT B**

**LETTERS**

1. Margaret Carlson
2. Jonathan Cooper
3. Ellen Epworth
4. Julius Genachowski
5. Alan Goldstein
6. Jonathan T. Molot
7. John A. Rogovin
8. Hugh Sidey
9. Steven Waldman

Margaret Carlson  
2707 N St. NW  
Washington, DC 20007

June 23, 2005

Dear Judge Hogan:

I know Matt Cooper as a colleague, a neighbor, and a friend. I danced at his wedding. I've watched Ben grow up. I've known Matt's wife, Mandy, even longer. When I try to picture him away from Mandy and Ben, it's too painful to do.

Over these many months, I've wondered how Matt could bear having his life taken over by lawyers and grand juries and court dates, all overhung by the specter of giving up his freedom. Theoretically, I would do the same. But having seen it close up, I don't know that I could. I worry that I would be so overtaken by anger at seeing a source so much in the wrong going on blithely with his or her life, I'd fold like a cheap bridge table.

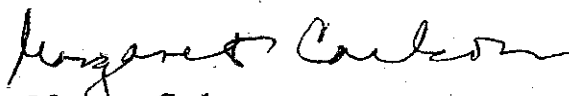
I would hope I'd rally to the cause, like Matt, who has suffered considerably for honoring his pledge, an essential one in Washington where so many sources won't talk without a promise of confidentiality. Journalists must honor their promises which protect the bad along with the good. We can't separate them like the darks and the whites in the laundry. If you were to go back on your word, who would trust you again? Breaking his promise is tantamount to giving up his profession and livelihood.

Prison in Matt's case would punish his family more than him, and punish his son most of all. Ben would be one way when Matt walked through that door; the way kids grow and change, he would be someone different when Matt got out. Should any child have to see his all powerful Dad incarcerated? Ben, at his age, couldn't possibly understand, nor could his playmates, who may well find out.

House arrest is better than prison, but, for a journalist, is particularly limiting. Only a door-to-door salesman relies more than a reporter on getting out to ply his trade.

It is wrenching to know that whomever set this in motion goes unfettered and free—may, in fact, sleep like a baby. He or she may watch as this catastrophe unfolds and, unable to be cowardly and duplicitous any longer, come forward at the last moment. Since that hasn't happened so far, it looks likely that only an innocent reporter will be punished. Surely, no good can come of that.

Sincerely,

  
Margaret Carlson

Jonathan Cooper

Violinmaker

61 Middlejam Rd. - Gorham - Maine - 04038

207-893-1866

6/24/05

The Honorable Thomas F. Hogan  
Chief Judge  
United States District Court for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001

Dear Chief Judge Hogan,

It is my sincere hope that through this letter I will be able to convey to you some of our family's deep concerns at this critical moment in my brother Matthew's life.

When our grandparents emigrated here 100 years ago their primary motivation was to live in a country where the truth was respected, where educational opportunity abounded and where it was truly possible to live a life based on high ideals. They didn't seek fortune only possibility. Through the next generations their dreams have been carried on by all of us. By my brother especially so.

His concern for doing the right thing has been evident his whole life. In his profession as a journalist he is dedicated to finding the truth and to providing the information that is so important in a democratic society. He lives these ideals and does not simply practice them at work.

We realize there are times when upholding ones beliefs causes conflict. The we in this case being the adults in our family but we are worried about the impact on Matt and Mandy's son Benjamin who is only 6. They are very close and Matt spends a great deal of time with Ben. The loss of his father would be emotionally devastating and extremely difficult to comprehend.

I know you will understand the brevity of this letter is an effort to prerserve your time. We have thought about this final phase every day throughout the entire process and we ask you to please make any confinement as minimal as you possibly can..

Sincerely,

Jonathan Cooper

Ellen Epworth  
PO Box 4, South Woodstock, VT 05071  
June 24, 2005

The Honorable Thomas F. Hogan  
Chief Judge  
United States District court  
for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001

Dear Chief Judge Hogan:

I am writing on behalf of my younger brother Matthew Cooper to implore you to consider Matt's fine character and reputation in your deliberation.

I am ten years older than Matt and was like a second mom to him as a young child. He was always a bright and funny kid and wise beyond his age. When he started reading at age three we knew Matt was bound to accomplish much in his life. He was a serious student and his work ethic earned him good grades from the start.

Matt has always had a sense of humor and it is one of his gifts he shares with his family, always apt and entertaining, but never in a mean or negative. I have seen Matt perform and he is truly funny.

More importantly, Matt is dedicated to his family. His young son Benjamin reminds me of Matt as a child. He is bright and sweet and endearing like his father. He knows more about dinosaurs than just about any six year old kid. Mandy and Matt are dedicated parents and make time to read with Ben daily. Matt's long term absence from their home would no doubt be traumatic for Benjamin.

Both of our parents have suffered strokes over the years, and Matt, busy as he is, has gotten on a plane and often been the first to arrive at the hospital to help in whatever way is necessary. His sense of duty is unwavering.

Matt is a thoughtful person, always remembering family birthdays and anniversaries, and holidays. He is a doting uncle to my daughter Hannah. I have no doubt than I could count on him in any circumstance to support me in any way he can. I am fortunate to have such a wonderful kid brother.

Matthew is an honest and principled man, not a criminal. He is taking a stand for what he believes in. Certainly that does not merit time in prison. I think the only humane option would be to allow Matt to serve any sentence in his own home.

Thank you for your consideration in this matter.

Sincerely,

  
Ellen Epworth

Julius Genachowski  
3006 Porter Street NW  
Washington, DC 20008  
June 28, 2005

The Honorable Thomas F. Hogan  
Chief Judge  
United States District Court for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, D.C. 20001

Dear Chief Judge Hogan:

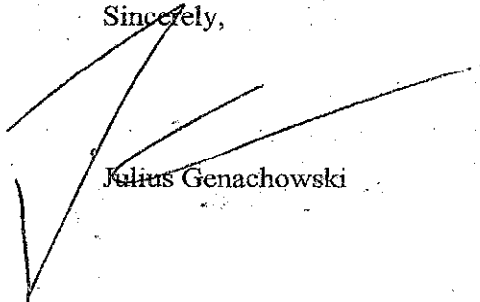
I am writing regarding Matt Cooper. By way of background, I am an executive at IAC/InterActiveCorp, an e-commerce company based in New York. I was a law clerk for U.S. Supreme Court Justice David H. Souter and, before that, for then-Chief Judge Abner Mikva on the U.S. Court of Appeals for the D.C. Circuit.

Most important, I've been a close friend of Matt Cooper for over twenty years. I've come to know his wife Mandy and son Ben very well. They are an extraordinary family, and Matt is a fantastic and devoted husband and father. He is a genuinely good person, in the fullest sense of the word, who has suffered a tremendous amount since this proceeding began. He takes his multiple obligations and commitments very seriously and very personally -- his commitment to his profession of journalism, his commitment to be a law-abiding citizen, and his commitment to his family. This proceeding has been very difficult on Matt -- in large part because of the potential harm this all could cause to his seven-year-old son.

Home detention would be a very real punishment for Matt, but it would -- to at least some degree -- spare his son very real suffering that would occur if Matt is required to leave his home. Ben is a wonderful boy; he is an only child, sensitive, and very close to his father. Matt has organized his life to spend substantial time with Ben, and it would be an incredibly painful wound to Ben, potentially a serious one, to have Matt suddenly be forced to be confined elsewhere.

I respectfully urge you to consider Ben in this process. As a close friend of Matt and his family, I worry very much that confinement for Matt could have serious and unfortunate consequences for Ben. Home detention would be a substantial and meaningful sentence for Matt, but at least spare Ben something he certainly doesn't deserve.

Sincerely,



Julius Genachowski



# The Dallas Morning News

June 26, 2005

The Honorable Thomas F. Hogan  
Chief Judge  
United States District Court for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001

Dear Chief Judge Hogan:

I'm writing on behalf of Matt Cooper, a fellow journalist, and a close friend since we were 7<sup>th</sup> grade classmates in South Orange, N.J., more than 30 years ago.

Specifically, I hope you can show him leniency in your sentencing. Matt intends no disrespect to the court or the judicial system through his refusal to divulge the identities of his confidential sources. Rather, Matt is upholding one of the most sacrosanct commitments of our profession.

For the Fourth Estate to perform its critical watchdog function -- in government, business and elsewhere -- sources whose safety or livelihoods might be threatened if they were publicly identified require the confidence that reporters will protect their anonymity.

This case has placed Matt in a tough quandary, because he cherishes both his professional ethics and the values of our political and legal systems.

For as long as I've known him -- truly, going back to the days when we got around on bicycles and skateboards -- Matt has been fascinated by the workings of Washington.

As adolescents, we used to watch the Sunday morning TV news shows together. In high school, where he was by far one of the strongest students in history, Matt launched a political science club in which students would get together to talk about issues of the day. And when we met up during breaks when we were in college, Matt was excited about the prospect of entering journalism.

Admittedly, some reporters who got into journalism after Watergate sought to build their careers by tearing down those of others. That was never Matt, and it isn't now. He's always been most interested in working every day as an eyewitness to history.

I'm also writing on Matt's behalf as a fellow husband and father. I can hardly imagine the trauma that this case is causing his wife, Mandy Grunwald, who is still grieving from the

loss of her father, Henry, in February. Their young son, Benjamin, doesn't know about Matt's predicament because he could hardly be expected to understand it. How do you explain a situation like this to a 6-year-old child?


If Matt were sent to prison, it would cause the family serious hardship.

Mandy's demanding work as a political consultant leaves Matt with a significant share of responsibilities in taking care of and raising Ben. Simply put, they're very close.

When our families vacationed together in Florida, Matt was an active dad, playing on the beach and in the pool with the kids, and entertaining them over meals with impressions of cartoon characters from contemporary children's TV shows.

Matt's a great guy who's being held in contempt of court for upholding the ethics of our profession. I hope you can give his circumstances special consideration.

Sincerely,



Alan Goldstein  
Assistant Business Editor



LAW SCHOOL

Jonathan T. Molot  
*Professor of Law*

(202) 994-8783  
jmolot@law.gwu.edu

June 24, 2005

The Honorable Thomas F. Hogan  
Chief Judge  
United States District Court for the District of Columbia  
333 Constitution Avenue, N.W.  
Washington, DC 20001

Dear Judge Hogan:

I am writing in support of my friend, Matt Cooper. I have known Matt for more than five years – ever since his son, Benjamin, and my daughter Clara first began to play together as toddlers. In the years since, I have spent more time with Matt and Benjamin than with any other father and child I know. We have shared weekends away with our families, innumerable family dinners, and countless days in the park or at the museum. We have also been parents in the same classroom for more than half of Benjamin's and Clara's years of schooling.

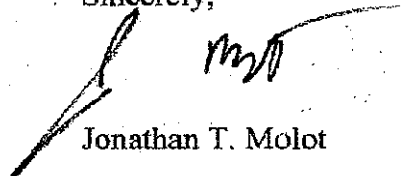
While almost all children are heavily dependant on their parents, Benjamin is especially so. He is an only child and he has no family other than his parents in the area. As a result, Matt ends up being both Benjamin's father and playmate. Matt plays chess with Benjamin, reads with him, takes him to the movies, and engages him in imaginary play (often involving a shared story about the super-secret "Daddy school" that Matt has invented). Matt also is responsible for all Benjamin's physical play, as Mandy, Matt's wife and Benjamin's mother, has a bad hip. (Hip replacement surgery just this past March has improved but not yet cured the problem.) Matt and Benjamin's weekend routine includes at least one extended romp in the park or at the Museum of Natural History (where Benjamin does much more romping than the usual six year old).

Benjamin's dependence on Matt is such that he experiences a great sense of sadness when Matt is away on even short business trips. In those cases, Benjamin counts the hours until Matt's return. I can remember one evening when Benjamin and Mandy were over for dinner and Matt was scheduled to come straight from the airport after having been away for a few days. Benjamin could focus on nothing but Matt's return. Only when Matt was there, and Benjamin had gotten a little time alone with him, was he able to play with the other children again.

Since Matt's short absences take such a toll on Benjamin, it is difficult to imagine how Benjamin would cope with a more extended absence. A child's sense of time is sufficiently different from an adult's that even a six month sentence would loom as an eternity for Benjamin. See Joseph Goldstein, Anna Freud & Albert J. Solnit, *Beyond the Best Interests of the Child* 40-41 (1979) ("Unlike adults, who have learned to anticipate the future and thus to manage delay, children have a built-in time sense based on the urgency of their instinctual and emotional needs. . . . For the younger school-age child, an absence of six months or more may be . . . beyond comprehension.")

Benjamin is at something of a turning point socially and educationally, particularly in terms of opening up to adults other than his parents. Benjamin knows me as well as any of his parents' friends, but if Matt isn't around, Benjamin is often quite reserved with me. I can only imagine that an interruption in the stability of his safety net and one of his two principal relationships would be very detrimental to Benjamin. See Goldstein et al. at 32 ("Physical, emotional, intellectual, social, and moral growth does not happen without causing the child inevitable internal difficulties. The instability of all mental processes during the period of development needs to be offset by stability and uninterrupted support from external sources. Smooth growth is arrested or disrupted when upheavals and changes in the external world are added to the internal ones."). I urge you to consider Benjamin's plight as you consider Matt's sentencing.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Molot', with a long, sweeping horizontal line extending to the right.

Jonathan T. Molot

John A. Rogovin  
2445 M Street, N.W.  
Washington, D.C. 20037

June 24, 2005

The Honorable Thomas F. Hogan  
Chief Judge  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001

Dear Chief Judge Hogan:

I am writing in support of Matthew Cooper's request for leniency in sentencing.

Matt is my oldest friend in Washington. I have known him since 1980, when we first met in college. He has, for over 25 years, been first in line for every life event -- first in line to call after my father died, first to call to celebrate the birth of my children, first to call each and every birthday, but last to leave at my wedding and bar mitzvah. I have always relied on Matt for sound, confidential advice whenever there's been a turning point -- whether professional or otherwise. He has always made himself available, and his advice has always been driven by a deep and abiding decency and loyalty that are the hallmarks of his own life. He is a man of enormous integrity.

There is no greater example of Matt's qualities than his role as a husband and father. And there is no greater source of pain for him right now than the possibility of not being there to support his family. I was there to celebrate Matt's marriage to his wife, Mandy Grunwald, almost ten years ago. I know there is not a day that goes by since first receiving a subpoena to appear before the grand jury that Matt has not worried about leaving Mandy alone with their six-year-old son Benjamin. That anxiety has only been heightened by recent life events, including Mandy's hip surgery and the loss of her father, that have brought even more challenges to their home at an already challenging time. Worst of all, of course, is the prospect of Matt's having to explain to Benjamin that he has to go to prison for a long time. For a six-year-old like Benjamin, any time away from his father will no doubt seem like an eternity.

Matt has taken his professional duties no less seriously. I have had the good fortune to watch Matt for the past two decades dedicate himself to the field of journalism. He has become one of the country's very best journalists through hard work, long hours, and tenacity. From our conversations over the last year, I can assure you that he has struggled with his loyalties to his profession and the very high standards he has set for himself as a journalist on the one hand and his enormous respect for your authority and the laws of our country on the other. But once Matt gave his word to his source that he

The Honorable Thomas F. Hogan

June 24, 2005

Page 2

would maintain confidentiality, he assumed that as an obligation to be honored with as much diligence as his commitment to his friends and family.

I respectfully urge you to show leniency on Matt in sentencing. I appreciate that you are in a position in which you must weigh many countervailing considerations. But Matt's situation has been driven solely by a set of strongly held values that we should all strive to emulate -- honor, commitment, and integrity.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "John A. Rogovin", with a long horizontal flourish extending to the right.

John A. Rogovin

HUGH SIDEY

June 22, 2005

The Honorable Thomas F. Hogan  
Chief Judge of the United States District Court  
for the District of Columbia  
333 Constitution Avenue NW  
Washington, D. C. 20001

Dear Judge Hogan,

I write on behalf of my colleague and friend, Matt Cooper, who has been ensnared in a most difficult First Amendment case before you with the possibility of going to jail for what many of us consider his responsible and honorable behavior.

I realize that First Amendment rights are not absolute but in this case it seems to me the protection of a source transcends the other considerations which do not seem to threaten national security.

You know better than I do there are also many other elements in such arguments. And one of them is the affect on a fine man and his career but even more important the impact on Matt's young son should Matt be torn from his family for months.

I know the family. The father-in-law, Henry Grunwald, was my editor at Time for years, a brilliant and caring man who loved this nation and its democratic ideals. Mandy Grunwald, Matt's wife, grew up in that environment and Matt who shared those ideals was taken into the family when he married.

Everything I have witnessed over these last years is that Matt and his family have relished participation in the rituals of public life and American openness. I speak up now in my belief that this moment is meaningful to our society and certainly to a fine man and the rights he cherishes.

Sincerely,

  
Hugh Sidey

198 Maple Street  
Brooklyn, NY 11225

June 26, 2005

The Honorable Thomas F. Hogan  
Chief Judge  
United States District Court  
for the District of Columbia  
333 Constitution Avenue, NW  
Washington, D.C. 20001

Dear Chief Judge Hogan:

I'm writing in the hope you will consider lenient sentencing for Matthew Cooper, should that become necessary.

I first met Matt in college and subsequently worked with him at the Washington Monthly. I have to say he's the last person I would expect to be at odds with the legal system. He was always among the most straight laced, conscientious and law abiding folks I knew. So I know his decision to risk punishment flows from a very deep commitment to the principle of protecting the confidentiality of sources.

I know he did not make this decision lightly. Of course any confinement would be damaging but it's the prospect of being separated from his son Ben that is mortifying. Matt is a wonderful and deeply involved parent. He and I have spent many hours comparing notes on which kind of dinosaurs our kids love most. I realize that if Matt is in violation of the law he may need to be punished but I hope you'll consider home confinement so that at least injury to his son could be minimized.

I happen to currently be the editor of Beliefnet.com, the largest multifaith website dedicated to spirituality and faith. I deal with many people who claim to be of high moral standing, but maybe don't always demonstrate that through their behavior. Matt is the real deal. I do hope you'll consider the sincerity and moral-grounding of his decision making process - and, more important, the needs of his son - when deciding what sentence to give.

Sincerely,

  
Steven Waldman